Between Border Policies and Welfare Control. A Comparative Analysis of Immigration Policy in Spain and Israel

Adriana Kemp & Francisco Javier Moreno Fuentes

Abstract

The present article offers a comparative analysis of migration policies in Spain and Israel, with particular emphasis on control and welfare policies. Control and welfare are central pillars of immigration policies and are typically portrayed as belonging to different policy realms (control policies governing admission to state's territory and welfare policies regulating social inclusion) and as being animated by opposite trends in migration policy (exclusionary and inclusionary). Yet, as recent policy trends in Spain and Israel seem to indicate, the relation between control and welfare immigration policies yields to complex and dynamic combinations. While facing similar dilemmas of control and social inclusion of new patterns of global migration, and despite the fact that both cases share a similar point of departure as relative new comers to the global migration system, we argue that the modes in which each state has reacted to and dealt with these issues have been conditioned by different policy paradigms. Policy paradigms are themselves embedded in the different migration constellations and definitions of welfare that prevail in each of those cases. In general terms, it can be said that the Spanish paradigm has been gradually moving towards a "hard on the outside – soft in the inside" combination that reflects Spain's position between the EU supranational pressures towards border closure, and the pull of the important role played by its informal economy; conversely the Israeli case falls squarely in the "soft on the outside-hard in the inside" variation of immigration policy, based on the pull of neoliberal policies that acquise to the growing demand for cheap and non organized foreign labor, and the simultaneous demographic anxiety over the ethno-national character of the nation state.

1. Introduction

Nation-states have markedly different and deeply rooted conceptions as to what constitutes the national community. These sets of ideas, relating to the boundaries of the political community, as well as to how to cope with the diversity existing within it, constitute "policy paradigms" that strongly influence the patterns to be followed by the populations of immigrant origin into the host society in order to fit in (Brubaker, 1992; Favell, 1998). These "paradigms" can be placed along a spectrum defined in one extreme by "multiculturalist" approaches, and on the other by those models that aspire to a greater internal (usually cultural) homogeneity of the national community.

The weight of policy paradigms is most strongly manifested in two central realms of migration policy: border control and incorporation. Typically, while the first focuses on the policing of political and territorial external borders, and is therefore associated with questions of state sovereignty, the second has to do first and foremost with the trade- off between social inclusion and social stability that has been usually the main concern of welfare states. In other words, border control policies target immigration processes as such, whereas incorporation policies are directed towards immigrants once they are already in the country (Hammar, 1990).

However, when it comes to analyzing contemporary migration policies trends, the usual portrayal of a division between exclusionary border control and inclusive welfare policies does not seem to exhaust all the possibilities. Migration control does not have to take place necessarily at the border, nor does it have to stop at it. Similarly, welfare policies are not necessarily intended to include different groups by equalizing their access to social goods, but can actually be powerful means of social differentiation and stratification. Moreover, while the dualism between exclusionary border control and inclusive welfare policies seems to cater to the distributive justice logics of liberal democratic theory, in practice democratic states resort to different combinations, or "policy paradigms" of border control and social policies when dealing with actual immigration on the ground, and managing its pressing contradictions. As Money suggests, the two dimensions of immigration policy may not be systematically related, with strict border control leading necessarily to more inclusive welfare policies.

By locating immigration policies in advanced industrial countries along two axes of immigration policies: control at the border (hard vs. soft outside), and incorporation in the welfare system (hard vs. soft inside), her line of analysis allows for 4 different variations of immigration policies (Money, 1999: 18).[1]

The main point we stress in this article is that, when we move away from abstract generalizations regarding the role of borders and welfare, it becomes evident that the nexus between migration control and welfare lies at the heart of the attempts made by most democratic states to manage the "contradictions" between pressures to expand migration, and a countervailing pressure for closure exerted by limits on national resources and the search for cultural homogeneity (Geddes, 2004: 150).

How do states deal with these contradictions, and to what extent these reflect on control and incorporation policies, are this article's object of analysis. Drawing on the Israeli and Spanish cases, we aim at offering a comparative study of immigration policies in two "non classic" immigration countries. Seen from the double vantage point of control and incorporation, such an analysis allows to examine both the contradictions posed by new patterns of migration, and the modes in which they are managed. In this context, we advance a two step argument: first, we argue that while facing similar dilemmas of control and social inclusion in face of new patterns of global migration, and despite the fact that both Spain and Israel share a similar point of departure as relative new comers to the global migration system, each state has reacted to and dealt with these issues through different policy paradigms, confirming the significance of national immigration policies. In general terms, it can be said that the Spanish paradigm has been gradually moving towards

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1   The examples that Money invokes for each paired variation are: Germany is a nation that has permitted a high level of resident alien admissions (soft on the outside) but considered that population to be "foreign" (hard in the inside); the U.S, has on a per capita basis relatively restricted flows but facilitates incorporation through naturalization (hard outside-soft inside); Japan is a nation with low levels of resident aliens and difficult integration (hard outside-hard inside); and Australia rounds out the possible variations by admitting high levels of resident aliens and facilitating integration (soft outside-soft inside) (1999: 18.). The notion of "hard on the outside-soft on the inside" is borrowed from Bosniak, 2007.

a "hard on the outside-soft in the inside" combination that reflects Spain's position between the EU supranational pressures towards border closure, and the pull of a growing informalization of its economy. Conversely, the Israeli case falls squarely in the "soft on the outside-hard in the inside" variation of immigration policy, based on the pull of neoliberal policies that acquise to the growing demand for cheap and non organized foreign labor, and the simultaneous demographic anxiety over the ethno-national character of the nation state. The second part of our argument is that, notwithstanding the different policy paradigms that prevail in each case, the interplay between openess and closure, restriction and liberalization of immigration policies seems to be endogeneous to state policies rather than solely cutting across inter-state comparisons.

2. Establishing Common Ground: Spain and Israel "Migration Constellations".

Comparing immigration policies in Spain and Israel is not self evident nor is it common. The absence of comparison is not surprising if we bear in mind that until rather recently there was no common ground on which such an analysis could be made in any significant way. Surely, both cases have experienced during the last two decades economic and political transitions that point at a similar direction: sizable economic growth; introduction of post-Fordist arrangements to the labor market epitomized by the increasing flexibilization of labor force; neo-liberal roll back welfare policies in Israel and selective privatization of a fragmentary "Mediterranean" type of welfare regime in Spain; the "ngo-ization" of social services provision and the development of welfare mixes based on public, private and third sector governance partnership; and the devolution of responsibilities over social programs geared at immigrants' integration to local level – regional in Spain, municipal in Israel.

But it was not until fairly recently – the mid-1980s in Spain and the early 1990s in Israel – that they begun facing similar dilemmas and policy quandaries while confronting heterogeneous patterns of migration hitherto unknown in either case, including the increasing numbers of irregular immigrants.

Therefore, before proceeding with the analysis, a clarification is due regarding the patterns of migration that render both cases comparable while bearing in mind the possible differences. The starting point for defining the common ground is that none of the compared cases represents a "classic" nation of immigration equipped with developed or explicit immigration policies and regimes. Within such a setting, questions of migration control and integration become "problems" or "challenges" in relation to those forms of migration defined as "unwanted" by national policies, whether their undesirability is justified in economic, demographic or ethno-cultural terms. In the case of Spain, since the mid-1980s it evolved from a classic emigration country into a pole of attraction for immigration. This "unease transition" (Cornelius, 2004), was effected through the inflow of growingly heterogeneous migration patterns in terms of the national origins of migrants, their socio-economic status, cultural background and also in terms of their reception. Thus if before the 1980s the influx of migrants comprised mainly of affluent tourists and "sunbirds" retirees from Northern Europe, since 1985 there are mixed patterns of returning Spaniards that emigrated as guestworkers in the 1960s and 1970s, post- colonial immigrants from Latin America perceived as part of a pan-ethnic Hispanic community (Joppke, 2005:30), and economic migrants and asylum seekers from non European countries, mainly from North Africa, Latin America and Asia (Cornelius, 2004: 388). While the migration inflows reflect a more complex pattern than a South-North divide, there is certainly an ethnicized hierarchy of otherness as well as of the problems related to immigrants, based on their perceived desirability as "wanted" or "unwanted", and as "high" or "low" immigration (Dietz and Agrela, 2004: 430-431).

Similarly, a migration "challenge" was created in Israel since the beginning of the 1990s, when it became a de-facto "reluctant" immigration country. The distinctive feature of the Israeli case is that it displays simultaneously all the characteristics of both an immigration country and a non-immigration country. With 1 out 3 citizens foreign born – the proportion of migrant stocks in Israel was 37.34% in 2000, one of the highest proportions in the world (United Nations, 2004), Israel does not regard itself either institutionally or ideologically as a classic "immigration" country but rather as an ethnic return migration state and society, or *"alyiah"* (literally: ascension, refering to Jewish

immigration).[2] As such, Israel proactively encourages the immigration of Jews from all over the world and has a well developed welfare system geared at their integration. Jewish immigration is perceived not only as constitutive of nation state building, as in other settler states, but also as a major means for ensuring the Jewish majority of the state in the demographic race that takes place within the context of a protracted and bitter national Israeli-Palestinian conflict (Shuval and Leshem, 1998; Shafir and Peled, 2002).

At the same time, the Israeli case presents a highly exclusionary immigration regime resistant to any other than diaspora return immigration. Thus, in addition to the last massive wave of immigrants that arrived from the former Soviet Union, Ethiopia and elsewhere during the 1990s, that became automatically citizens by way of return, Israel experienced for the first time in its history a considerable influx of non-ethnic migration that highlights its character as a non-immigration regime (Cohen, 2001).[3] In contrast to return ethnic migration, non-ethnic migrants are perceived as non-assimilable to the national "community of character", and state officials refuse to relate to them as immigrants in any substantive way. While patterns of non-ethnic migration

2   "Returning ethnic migration" is distinguished by two complementary features. First, the immigrants feel an a-priori affinity with the destination society; as such, they are not new or strangers but, rather, an intrinsic part of the "*etnie*". Second, the receiving society also perceives the immigration as a "homecoming", and receiving institutions thus accord the newly-arrived immediate and unconditional acceptance (see Munz & Ohliger, 2003).

3   The 1950 Law of Return is the cornerstone of the Israeli returning ethnic migration regime. Based on a "*jus sanguinis*" principle, the Law grants every Jew the automatic right to immigrate to Israel and become a citizen of the state. Although according to "*halakha*" (Jewish Law), the status of Jew is acquired only through the maternal line or by religious conversion, the 1970 amendment to the Law grants the right of return also to "a child and a grandchild of a Jew, the spouse of a Jew and the spouse of a grandchild of a Jew, except for a person who has been a Jew and has voluntarily changed his religion." Law of Return (Amendment No. 2), 5730-1970, 24 LSI 28, § 4B (1969-70).

are not made of one cloth,[4] those that were formed through the official and non-official recruiting of overseas migrant workers, and more recently through unsolicited mixed flows of asylum seekers, refugees and economic migrants from Sudan and sub-Saharan African countries, are deemed by the state as the most "problematic" in terms of control and incorporation policy dilemmas.

For the purpose of comparison we shall examine the nature and evolution of control and incorporation policies geared at those migrants that fill the structural and symbolic position of labor or economic migrants. These allow for a better understanding of the policy dilemmas, the gap between control policies and their outcomes, and the strain between inclusive and exclusionary trends that take place in a context in which immigrants are confined to their economic role and are caught up in the catch-22 situation captured by what Aristide Zolberg's calls the "wanted but not welcome syndrome" (Calavita, 2005: 11).

3. Immigration Control and Incorporation: Some Key Issues

As pointed out by Geddes (2004), migration raises several boundary issues for national welfare states. For the purpose of our analysis of immigration control and incorporation policies in Israel and Spain we shall organize these issues along one main axis:

1. The boundaries of inclusion and exclusion of welfare regimes, or how welfare regimes influence immigrants.[5]
2. The roles played by immigration and immigrants in welfare, or how immigration influences welfare regimes.

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4   Most prominent among these new patterns of non-Jewish migration have been non-Jews immigrating to Israel from the former Soviet Union (FSU) in the framework of family reunifications and who constitute nearly 25% of the 1990s FSU immigrants, and between 18,000 to 26,000 Falash Mura from Ethiopia (descendents of Jews converted by force to Christianity about one hundred years ago), whose immigration rights have become subject of political strife within the religious and political establishments. See Al-Haj & Leshem, 2000; Kimmerling, 2001.
5   By focusing on these issues we do not imply that they exhaust the debates over migration and welfare; they rather address in a more direct fashion the relation between migration control and incorporation.

The first issue draws on the understanding that social protection policies are not insulated from control and boundary tensions. A core puzzle posed by current migration concerns the ability of governments and states to effectively regulate immigration flows and manage the social and political fallout that immigration precipitates in the domestic setting (Messina, 2007: 6). While often framed as a policy dilemma, this question engages different perceptions regarding state power, its autonomy *vis a vis* domestic organized interests (like employers, or human rights organizations), and international and supranational pressures; and finally regarding the significance attributed to governmental policies in shaping migration flows (Cornelius and Rosenblum, 2005).

Literature that deals with this topic can be divided into two main positions: those that claim that states are losing control over their "beleaguered" borders, and those that claim that states are tightening their grip over borders resulting in their renewed militarization and securitization. However, debates that couch the issue of immigration control in generalized terms of states "losing" or "re-asserting" their control over the borders seem to miss one important point: immigration control does not have to take place necessarily at the border, nor can it be reduced to it.

More recently, a third line of research has stressed the shifting loci of immigration control in face of unmet or unheeded demands for border control.[6] One important trend has been the internalization of immigration control from the border to welfare programs and institutions. The link between immigration control and access to welfare has been a feature of immigration controls in European countries and the US (Cohen et al., 2002). In the 1980s and 90s, harmonisation of reception policies for asylum seekers across the EU has made the deliberate social exclusion of asylum seekers the cutting edge of governments' attempt at preventing immigrants' access to welfare. While there might not be anything new in checks on immigration status effected by employers and officials of all kinds, and aimed to enforce restrictions on the right to work or receive support services, this takes place nowadays in the context of neo-liberal roll back social policies that fester xenophobic

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6   For this line of thought see, Guiraudon & Lahav, 2000; Joppke, 1998; Messina, 2007.

discourses about immigrants as resource drain on ever more limited resources (Mynott, 2002: 22). Yet, as rightly remarked by Geddes, welfare states are not necessarily excluding immigrants in an undifferentiated manner, but rather becoming the mechanism and the site where the line is drawn between "wanted" and "unwanted" migrants (Geddes, 2004).

   That social policies have not been insulated from efforts at immigration control was never lost on scholars studying welfare states. According to Freeman, national welfare states constitute, by their very nature, closed systems with clearly defined boundaries. Those boundaries have the purpose of identifying the members of the national community (and therefore those who are full beneficiaries of the protection of the state), from those who are not members of that community (Freeman, 1986). In this statement Freeman follows the notion of distributive justice established by Walzer, assuming the existence of "a bounded world within which distribution takes place. A group of people committed to dividing, exchanging, and sharing social goods, first of all among themselves" (Walzer, 1983: 31). This relation between the right of access to the benefits and services provided by the social protection schemes and the idea of belonging to a national community turns out to be coherent with the concept of Welfare State utilized by Marshall, for which those schemes represent the institutionalisation of the social rights acquired by the citizens (Marshall, 1964: 86). According to Marshall, in the sequence of the institutionalisation of rights, social rights are extended to all citizens only after the granting of civil and political rights. This subordination would in fact point out at the existence of some sets of rights that would be considered central for the definition of the concept of citizen (civil and political rights), and some rights that could be considered as "complementary" (social rights) that would follow, even chronologically, to the previous ones (King and Waldron, 1988: 420). The uneven development of social rights in Western liberal democracies (countries in which we can speak of a strong concept of citizenship) provides certain "verisimilitude" to this hierarchical organization of rights. The arguments and justifications historically used during the creation and expansion of mechanisms of social insurance and schemes for the provision of social services apparently support this hypothesis as well, for they have often been wrapped up in rhetoric of "national solidarity", and the fulfilment of the "rights of citizenship" (Brubaker, 1992).

In the opposite extreme of the debate about the logic underlying the expansion of social rights, and clearly in opposition to the vision of the welfare states as intrinsically exclusive systems, we find universalistic authors that reckon that those states have shown considerable receptivity to incorporate the populations of foreign origin by extending (although with different rhythms) the coverage of their social protection schemes to include all residents regardless of their nationality. This inclusion would be explained fundamentally by the translation of the international conventions and agreements for the protection of the individual rights to the national legislative frameworks (Soysal, 1994; Jacobson, 1996); by the role performed by the national judicial systems, especially constitutional and supreme courts (Joppke, 1999); or by the action of the bureaucracies responsible for applying the policies of social protection (Guiraudon, 1999).

The actual definition of entitlements of populations of migrant origin to the social protection schemes in contemporary advanced societies seems to lie in an intermediate position within the aforementioned debate. Although the arguments of the authors that defend the universalistic position seem to be correct as for the extension of rights to a good number of foreign residents considered as "denizens", as if placed in the "anti-chamber" of citizenship (see Hammar, 1990; Geddes, 2004); this group (although a majority in the EU) only constitutes a privileged portion of the total number of foreign residents in those countries. Thus, while some categories of non-nationals have obtained the full access to the benefits of the social protection schemes on equal terms that nationals (validating the universalistic arguments), other groups (undocumented immigrants, tolerated refugees, etc.) have been (implicit, or explicitly) excluded from the majority of the benefits of those systems, providing a relatively clear image of the limits of inclusion and exclusion of welfare schemes.

As previously mentioned, one of the main purposes of this article is to trace general immigration policy trends in Israel and Spain while highlighting the interplay between openness and closure of their respective welfare and control regimes. Yet, the extent to which welfare states operate as mechanisms of immigrants' social inclusion or exclusion refers only to one side of the debate about the control-incorporation nexus. The other side engages with the modes wherein immigration impacts on the functioning of Welfare Regimes of

receiving societies and the role immigrants play in their changing nature. Within this context we will focus our analysis on the access of the populations of migrant origin to the social protection systems.[7]

In relation to the access of migrants to the social protection schemes, we can argue that the institutional frameworks that characterize the different Welfare Regimes[8] determine the form taken by the policies of equality (of access) to the populations of immigrant origin. Thus, those attempts to limit the access of certain groups to benefit from essentially universalistic social protection systems (Beveridge type) would be doomed to failure because it would join an unsystematic and discriminatory application of the restrictions adopted. Furthermore, the accumulation of additional schemes as a mechanism to achieve universality in Social insurance systems based on participation in the labour market and the payment of social contributions (Bismarck type), will result in a complex overlapping of bureaucratic structures, as well as in the emergence of a multiplicity of "interstices" between the institutional frameworks responsible of those schemes, often producing the lack of access to those services by those groups in a more precarious administrative and social situation (Moreno Fuentes, 2004).

4. Spain as a Country of Recent Migration

As other Southern member states of the European Union (EU), Spain moved from sending country to net receiver of migrants over the last two decades.

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7   There are at least three additional issues addressed by research literature that due to space constraints will not be discussed here: first, the way in which social protection schemes have responded and should respond to the specific needs posed by these groups; second, the potential loss of legitimacy of the social protection system due to the increasing heterogeneity of the population, as well as the middle classes "flight" from the public services; third, the transformation of the welfare supply schemes due to the role played by migrants, mainly women, in the provision of those services.

8   The notion of "Welfare Regime" refers to the formation and evolution, covering of the different segments of the population, and balance between state, market and civil society in the provision and financing of welfare services. See, Esping-Andersen, 1990.

This shift of position in the international migration system was determined by three somehow interconnected processes: an important transformation of the Spanish economic structure, a relatively smooth political transition from a right-wing dictatorship to a liberal parliamentary democracy; and the incorporation to the European integration project (EEC-EU). In a context marked by large economic and political changes the direction of the migratory flows reversed and an initially small but increasingly growing number of foreign nationals settled in Spain. Although the initial response of Spanish authorities was to tighten the control of its external borders, following EU requirements, a growing conflict between the externally induced restrictive policy directions and the increasing demand for unskilled labour resulted in a the gradual development of more comprehensive migration policies.

While generally complying with EU requirements for strict border policing (at least in relation to certain migration flows) Spanish authorities developed increasingly specific policy initiatives.

Table 1. Foreigners living in Spain

Year	Total	EU*	Rest of Europe	North-America	Latin-America	Africa	Asia
Foreign legal residents (data from the Ministry of Interior)							
1975	**165,289**	92,917	9,785	12,361	35,781	3,232	9,393
1980	**182,045**	106,738	11,634	12,363	34,338	4,067	11,419
1990	**407,647**	-	-	21,186	59,372	25,854	29,116
1995	**499,773**	235,858	19,844	19,992	88,940	95,718	38,352
1999	**801,339**	312,203	41,353	17,138	149,571	213,012	66,340
2001	**1,109,060**	331,352	81,170	15,020	282,778	304,109	91,552
2002	**1,324,001**	362,858	107,574	15,774	364,569	366,518	104,665
2004	**1,977,291**	498,875	168,900	16,964	649,122	498,507	142,762
2006	**2,873,250**	598,832	359,840	17,446	1,037,110	671,931	185,355
2008	**3,979,814**	1,546,309	114,936	19,256	1,215,351	841,211	238,770

* EU data includes nationals of the new member states after the enlargements processes of 2001 (EU-15), and 2004 (EU-25).

Data from the Census**						
2002	**1,977,944**	489,813	212,132	22,103	730,459	423,045	98,942
2004	**3,034,326**	636,037	404,643	24,613	1,237,806	579,372	142,828
2006	**3,884,600**	916,100	645,600	30,000	1,350,000	741,600	202,100
2008	**4,519,554**	1,749,890	183,108	21,492	1,617,202	737,400	207,850

** Includes all those registered in the Census, regardless of their legal status.

Sources: Ministerio del Interior; INE and MTAS.

While in 1999 the foreign population represented roughly 2% of the Spanish population, by the beginning of 2009 foreigners constituted more than 10% of the Census. The relatively rapid annual growth in the number of foreign residents of the late 1990s accelerated after 2000, with average annual increases superior to 40%. In addition to the rapid increase in the number of foreign residents, the considerable discrepancies observed between the data on legal residents (including all those with a residence and/or a working permit), and that on residency (including all those registered at the municipalities, independently of their administrative and/or legal status) deserve particular attention.

Without ignoring the difficulties of enforcing the strict policies of border control officially in place, we should also consider the possibility that over this period Spanish authorities may have tried to combine compliance with strict border control policies for some migratory flows (particularly from Africa), with a relatively more lax attitude in relation to other groups (specifically from Latin America and Eastern Europe), in order to cater for the perceived needs of certain sections of the Spanish economy. Thus, the number of Latin American migrants legally living in Spain multiplied roughly by fourteen between 1995 and 2008 (obviously more than that if we account for the population included in the Census), and that of Eastern Europeans by more than twenty, while the number of immigrants coming from the African continent over the same period increased a little bit less than five times. These differences in the growth rate of different immigrant communities were to a large extent the result of border control policies implemented by Spanish authorities.

The arrival of undocumented migrant in Spain over the last two decades has been structurally linked to the evolution of the Spanish economy, and more specifically to the fluctuations of the informal sector, which strongly

relies in this source of labour. By its very nature, the underground economy[9] eludes administrative control and is not included in the official statistics, but it is estimated to represent between 20 and 25% of the Spanish GDP. Beyond culturalist explanations (lower respect for authority, higher tolerance towards irregular practices, etc.), some structural factors linked to the production structure (bigger role of small and medium enterprises), the strengths and weaknesses of its economy (more important role of activities particularly prone to the development of irregular employment such as agriculture, tourism related activities, relatively low-tech and labour intensive manufacturing activities, etc), its higher exposure to international competition (in those very same sectors), and the relatively underdeveloped character of their Welfare system should be deem particularly responsible for this situation. Thus, several sectors of the Spanish economy have experienced a considerable growth of underground activity, each responding to a different rationale to "go underground". While the primary sector (mining, animal farming or agriculture), to a large extent composed of production units with relatively low levels of capitalization and with a large supply of unskilled labour (undocumented migration), developed survival strategies at the fringes of the regular economy, in the secondary sector (manufacturing) the underground economy is relatively less important.

Within the tertiary sector, the domain of services for firms has experienced a transformation of the working procedures and practices that implied the flexibilization (contracting out and outsourcing of tasks, labour hired as autonomous workers -covering their own social insurance costs-, etc), precarisation of working conditions (temporary and part-time jobs, contracts channelled through employment agencies), and, to some extent, the reliance

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9   Following Schneider, we can define the underground economy as: "All market-based legal production of goods and services that are deliberately concealed from public authorities for the following reasons: 1) to avoid payment of income, value added, or other taxes 2) to avoid payment of social security contributions 3) to avoid having to meet certain legal labour market standards, such as minimum wages, maximum working hours, safety standards, etc., and 4) to avoid complying with certain administrative procedures, such as completing statistical questionnaires or other administrative forms" (Schneider, 2004: 4).

on the informal sector. But it is in the other area of the tertiary sector (personal services: catering, cleaning, domestic service, caring for dependant people, etc.), where the underground economy has become more widespread. Here not only firms, but also households have externalised part of their tasks and responsibilities to workers irregularly hired (Baldwin-Edwards and Arango, 1999). As we will see more in detail later on, the minimalist character of the Spanish Welfare system (structured around the three basic legs of a universal healthcare system, the education system, and an uneven but relatively universal pension system) plays a key role in accounting for this state of affairs, for the growth of a large sector of underground domestic and caring activities constitutes a cheap market substitute for the non-existence of a public system able to support households in dealing with their reproductive functions.

4.1. Spanish Immigration Policies: Border Control and Amnesties.

Up to 1985, Spanish legislation on immigration was characterised by a lack of regulation of all issues related to the settlement of foreign nationals in Spain. In July 1985, just a few months before the incorporation of Spain to the EEC, the government passed the fist Law aimed at regulating immigration. The urgency in the drafting and discussion of the bill was facilitated by the extremely low profile of this area of policies in the Spanish political agenda, and by the understanding by all political forces of the need to regulate immigration before entering the EEC. The new legislation had a very restrictive character, with a strong emphasis placed on issues of border control. This Law did not recognise the immigrants' right to family reunification, and did not expand on the issue of the immigrants' rights to access the social protection schemes, leaving this issue unregulated. This Law clearly placed Spain in the role of gatekeeper of the EEC's Southern border.

   Despite that strict regulation developed in accordance with the requirements of its European partners, Spanish authorities maintained a relatively flexible stand on the actual implementation of effective policies of border closure up to the early 1990's (Pérés, 1999). This situation started to change in 1991 when, coinciding with the expiration of the agreements with Morocco and Tunisia for the mutual suppression of visas, the Spanish government reintroduced the requirement of visas for North Africans. This change in the visa policy was again related to the EU, for the closure of the external border appeared as

a precondition for the incorporation of Spain into the Schengen agreement. In the following years Spanish authorities invested considerable resources in trying to build an effective system of border control around Ceuta and Melilla (two Spanish enclaves in the North African coast), and the hundreds of kilometres of coast of the Iberian Peninsula. The growing number of "*pateras*" (small and fragile boats) arriving to the Spanish coast of Andalucía and the Canary Islands,[10] forced Spanish authorities to increase the human and material resources dedicated to control the coasts. The idea of fulfilling a European mission when exercising a strict control over the EU external border was clearly reflected in the requests by Spanish authorities for the EU to co-finance those policing efforts, and in the positive response by the EU to that request (Moreno Fuentes, 2006).

Another sign of the toughening of border policies in the last years has been the denunciation of the agreements for the suppression of visas with some Latin American countries. This visa policy change with Latin America was particularly difficult to implement due to the historical connections that link Spain to those countries, to the perception of the existence of an historical debt towards those countries for the role they played as receivers of Spanish emigrants up to the 1950's, and because of the increasing economic interests of Spanish corporations in that area. Nevertheless visas have started to be asked to citizens of some of those counties, although generally only after large communities of migrants from those countries have already settled in Spain.

The highly segmented demand for labour, quite strong in certain sectors of the Spanish economy, has been among the most powerful pulling factors in the development of undocumented migratory flows towards Spain in recent years. An economic model based on the exploitation of undocumented immigrants

10 One tragic indicator of the flow of undocumented migrants is the number of immigrants drowned when trying to cross the Straits of Gibraltar, or the distance that separates the Canary Islands from the African continent. According to the Ombudsman of Andalucía, more than 1,000 immigrants were reported dead while trying to cross the "*Estrecho*" between 1993 and 98. For ATIME, an association of Moroccan immigrants in Spain, that figure reflected the reality of 1998 alone, for most shipwrecks took place near the Moroccan coast or were taken away by the streams, and therefore went unnoticed for the Spanish authorities.

cannot last permanently and social actors (employers, trade unions) became gradually become aware of the negative consequences of this situation (shanty towns, increasing marginalisation, as well as growing xenophobic feelings and racism against immigrant populations).

Thus, in recent years both social actors and public administrations have expressed in several occasions their interest in establishing schemes for the orderly import of unskilled immigrant labour. The signing of bilateral agreements with sending countries appeared as a first mechanism to combine the needs of employers with the interest of the Spanish authorities to increase their control over the inflows of migrants. Thus the Spanish government announced in October 1999 the signing of one such agreement with Morocco regulating temporary migration to Spain. Similar bilateral agreements were later signed with other countries such as Ecuador, Colombia, Mali, Rumania, Dominican Republic and Poland. Despite the good intentions existing behind those agreements, they have remained largely inoperative due to the rigidity of the bureaucratic structures that were supposed to handle these processes, the weakness of the institutional structures that were supposed to manage their implementation, as well as the strength of the spontaneous flows of undocumented migrants towards Spain which make the regular import of labour completely unnecessary. Spanish authorities had then to deal with the issue of undocumented migration as a *de facto* reality, and its close interlink with the underground economy through the implementation of regularisation processes. Thus, between 1985 and 2005 five "exceptional" regularisation processes were implemented in Spain (1986, 1991, 1996, 2000 and 2005), and a yearly quota system has been in operation since 1993.

The last of those processes, initiated in February 2005, aimed at providing working permits to those who could proof residency in Spain for the six months previous to the beginning of the process, and more importantly could produce a working contract (the working permit would not become effective until the immigrant worker has not been registered at the Social Security system, and therefore is paying its SS contributions). In fact, the application for the regularisation could not be presented by the migrants themselves, but actually had to be presented by his/her potential employer. This process was widely agreed by the social actors including employers associations, trade unions, civil society organisations, and only the conservative party (*Partido*

Popular –PP-), claimed it was an extremely negative process which would result in a reinforcement of the "calling effect" for further undocumented migrants. The Socialist government argued this was not an "amnesty" but actually a mechanism for emerging the underground economy, with all the benefits this could imply both for migrants (improving their working and living conditions) and Spanish society (taxes and SS contributions collected, fight against underground economy, etc). By the end of this "normalisation" process some 650,000 workers from the underground economy were legalised. The government declared that it expected this "normalisation" to represent an additional input of 750 million € for the SS system in 2005, and nearly 1,500 millions in 2006 (El País, 7th. June, 2005).

## 5. Israel as a Reluctant Immigration Country

Since the early 1990s, Israel has become a host country to labor migrants, arriving from virtually every corner of the world.[11] Following the onset of the first "*intifadah"* in 1987, and the deterioration of Palestinian-Israeli relations that degenerated in a vicious circle of violence in the years to follow, labor migrants were recruited in increasing numbers to replace Palestinians daily commuters, mainly in the agriculture and construction sectors where they concentrated. Two main factors led to the massive mobilization of overseas labor migrants at the beginning of the 1990s. The first is related to the strong pressure exerted by employers to find instant solutions to labor shortages, and the evolving clientelistic politics that provided inflated benefits to strong and organized employers of labor migrants, while diffusing their costs (Bartram, 1998). The other factor that fueled a large-scale recruitment of labor migrants was connected to the politics of unilateral separation between Israelis and Palestinians that matured in the Oslo years, and that was to be implemented first and foremost in the labor market. Easing the Israeli dependence on daily commuters from the occupied territories, now perceived as a security threat, and intensifying the control over their movement into Israeli territory proved

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11   Foreign workers with permits in Israel come from approximately 100 countries but 93% of them come from 12 countries. See Shaps, 2008.

to be critical in the governmental decision to replace them with labor migrants from elsewhere.

In that sense, the guest worker program in Israel was to acquire a double instrumental value as a means to manage both the separation process between Palestinians and Israelis, and to enable the steadfast passage from a collectivist welfare state into one based upon neoliberal social policies (Kemp and Raijman, 2008).

Table 2. Stock of non-Palestinian foreign workers (with and without permits) in Israel, 2001-2007
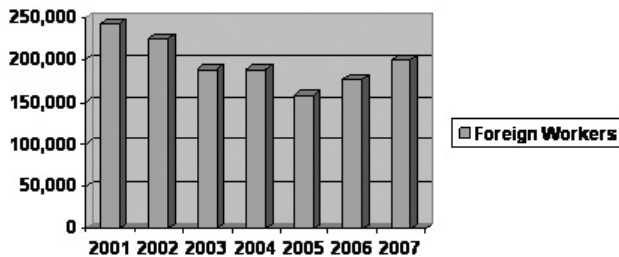
Source: Israeli Central Bureau of Statistics (ICBS).
Data on 2005 combined from the Ministry of Industry, Trade and Labor (ITL) (workers with permits), and ICBS (workers without permits).

By 2000 documented and undocumented labor migrants accounted for 9.6% of the Israeli total labor force, 60% of them without permits (Ministry of Labor and Welfare Affairs, 2001). Moreover, if at the beginning of the 1990s Israel was perceived by different groups of migrant workers as a transitory corridor between two major migration systems – Western Europe that had become at the time increasingly "fortressed", and the oil producing Gulf Countries – by the end of the millennium more and more migrants were coming to Israel as a main port of destination. Some of them eventually settled and created their own families (Kemp et al, 2000; Liebelt, 2008).

Once in motion, clientelistic policies led to the rapid growth and expansion of labour migration from the agriculture and construction sectors to newer sectors such as elderly care. Moreover, as it is usually the case, the official recruitment of foreign workers also opened "backdoors" to an inflow of undocumented migrants that made 50% of the total labor migrants' population.

"Undocumented" migrants arrive mainly from Eastern Europe, South Asia, Africa, and South America, and are employed primarily in the domestic services sector for which the government does not allocate work permits.[12] For most of the 1990s, their presence of these migrants, while denounced from time to time by government officials and politicians in office, it was also largely tolerated and definitely welcomed by Israeli employers. Moreover, as it will be shown later, the categories of "legal" and "illegal" are not mutually exclusive as the line dividing between those situations are very tenuous.[13]

Indeed it was not until the early 2000s that attempts were made by the government to reduce the numbers of labour migrants (with and without permits), a phenomenon perceived to be "growing out of control" (Kemp and Raijman, 2008). As shown in Table 2, the last decade shows a gradual decrease in the total number of labour migrants. This can be related to governmental policies waged since June 2001, and aiming at "closing the skies" to further recruitment of labor migrants. As reflected in Table 3, by 2007 the total number of labor migrants rose again and stabilized around an estimated 8.5 % of the labor force, 11% of the private sector (Eckstein, 2007: 30). Their share in the Israeli labor market has meanwhile outnumbered the rate of Palestinian

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12   According to the Israeli Central Bureau of Statistics (ICBS) 75% of the undocumented labor migrants in Israel in 2004 came from he FSU (25%), Jordan (11%), Romania (8%), the Philippines (5%); Poland (5%), Brazil (5%), Colombia (4%), Turkey (4%), and Thailand (2%) (Press Release, ICBS, 165/2005 July 28, 200)5. The considerable overlapping between the countries of origin from which labor migrants are officially recruited and those from which undocumented migrants arrive, points at the tenuous line separating both categories.

13   There are five ways of becoming "illegal" in Israel: 1. Entering without permits through land borders or being smuggled across the border. Women victims of trafficking and asylum seekers from African countries (called "infiltrators") enter through this way; 2. Entering with forged documents; 3. Entering with tourist visa and working without permits; 4. Entering with a work permit and overstaying it; 5 By leaving or "running away" from the original employer to whom the worker is indentured through the "binding system". The last two constituted the major means through which a large pool of illegalized workers had been created in Israel up until 2002. Since the establishment of the Immigration Police in 2002, becoming illegal meant also becoming deportable. For an analysis of the deportation policy and the "binding system", see Kemp, 2004.

labor force from the occupied territories that had been working in the Israeli secondary labor market since 1967 and that at the highest point comprised 7% of the Israeli labor force (Bartram, 1998). These figures also rank Israel at the high end of the industrialized economies heavily dependent on foreign labor, a process that despite occasional attempts at "mending" it seems to have entrenched dualism as a structural feature of the Israeli labor market.

Despite the decrease in total numbers of labor migrants through the 2000s, Table 3 indicates that the number of labour migrants with permits has remained quite stable, and even shows an increase towards 2007. The discrepant trends shown by data in Table 2 and 3 mean that the main impact of "closing the skies" policy has been less on the dependency of certain sectors of the Israeli economy on labour migration as such, but rather on reducing the number of irregular migrants. Thus, if for most of the 1990s the share of undocumented migrants out of the total population was estimated at 60%, by 2004 this share decreased to 45%.

Table 3. Stocks of foreign workers with permits in Israel, 2001-2007
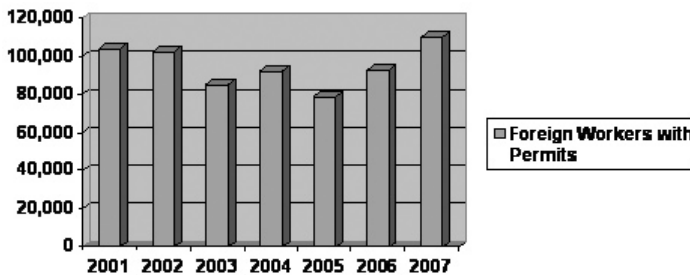
Sources: Data until 2004 from ICBS. Data on 2005 from the ITL Ministry. Data on 2006-2007 from ICBS.

Indeed, "closing the skies" coincided with the creation of the Immigration police in August 2002, whose main role has been the launching of massive deportation campaigns of irregular migrants.[14] Both of these measures were

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14 According to official reports, from September 2002 to February 2005, some 130,000 illegal labor migrants were reported as having been "removed" from Israel. Israel Immigration Administration, http://www.hagira.gov.il/ImmigrationCMS (last visited May 1, 2006).

part of a broad program of economic reform that the Treasury Ministry was determined to advance in order to address structural problems of the Israeli political economy by changing Israel's labor migration policies. As presented by Israeli policy makers, the "Closed Skies" policy was to have a double significance for the local political economy: as a central part of a five year plan to reduce unemployment it aimed at "returning" Israelis to the menial jobs they had not worked in for years (as the then Finance Ministry Netanyahu put it, to achieve a shift "from unemployment to work"[15]), and it intended to put an end to the era of uncontrolled *laissez faire* in allocating permits.

Table 4. Sector Distribution of Permits by Country of Origin

Industry/Year	2002	2006	2007	Main Countries of origin
Agriculture	30,000*	25,942	25,817	Thailand, China
Construction	32,000*	12,300	12,000	Romania, FSU, China, Turkey
Industry and Restaurants	8,000*	3,050	2,080	Romania, FSU, South America, Philippines, China, Thailand
Health and elder care	40,000*	44,178	51,744	Philippines, Sri Lanka, India, Bulgaria
TOTAL	110,000*	85,470	91,641	

Source: *Workers Hotline. www.kavlaoved.org.il; ICBS www.cbs.gov.il/hodaot 2007.

However, the recovery plan did not put an end to clientelistic politics, but rather resulted in a "re-organization" of the quotas allocated to each employment sector (Table 4), and the replacement of a labor recruitment system based on employment by individual employers or small to mid-size manpower agencies with a system of licensed manpower corporations whose profits depend on the number of labor migrants they recruit and employ. As shown in Table 4, the distribution of permits per employment sector in the last years indicates a shift from construction being the largest employer, to a steady growth in permits allocated to agriculture and the elderly care sector. As a matter of fact the latter is the fastest growing sector in which migrant workers are employed: while in 1996 the sector comprised only 7% of all

15 See Economic Policy for 2003: The budget and structural changes, Government Resolutions 30.7.02, www.mof.gov.il/dover.

permits issued to foreigners, by 2002 the number had quadrupled to 28% of all permits (The Manpower Planning Authority in the Ministry of Labor and Social Affairs, 2003), and, as seen in Table 3, in 2007 more than half of the permits accorded to labor migrants went to the nursing and elderly care sector.[16]

Given that most of the labor migrants in the nursing care sector are women, the continuation of this trend implies that the proportion of women among labor migrants in Israel will only grow in keeping with worldwide trends of feminization of migration (Zlotnick, 2005).[17] Elderly care is also the only sector in which there is an over the board consensus that there should be no quota limiting the recruitment of labor migrants and, based on demographic forecasts, the sector is also expected to grow considerably in the following years. The dynamics of this sector hint at the role that (female) labor migrants play in the restructuration of the welfare and the creation of new governance mix in the provision of social services.

Summing up, in terms of immigration control policies, the picture that emerges so far is that during the 1990s, most of the border control efforts focused on Palestinian commuters from Gaza and the West Bank by means of border closures, checkpoints, and a stricter permit system that preceded the erection of the wall/fence in 2002. In regard to labour migrants' entry and recruitment, governmental policies had been rather lenient until the second half of the 1990s and characterized by weak or failed attempts at reducing their numbers in the 2000s.[18] By contrast, the brunt of control over labour migrants was felt not at the border, but once inside.

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16   As a result of sector permits re-organization there has been a change in the ethnic composition of the flows over time, with migrants from Southeast Asia increasing their share from 33 % in 1995, to 78.5% in 2004.

17   About 95% of migrants in the nursing care sector are women, most of them from the Philippines, with an average age of 34. 40% of them are married, and half of them have children in their country of origin. By the end of 2007, 43% of the 110,000 foreign workers who entered Israel with work permits were women, whose average age is 37.3, slightly above the median age of officially recruited male migrant workers (median age 35). See Shaps, 2008; Natan and Tzwebner, 2009.

18   On government border control policies, see Economic Policy for 2003: The budget and structural changes, Government Resolutions 30.7.02 ("Rachlevsky report"), www.mof.gov.il/dover.

5.1. Israeli Immigration Policies: The Revolving Doors of Binding and Deportation.

Similarly to bygone precedents, the Israeli "guestworker program" is premised on the ideological assumption that migrant workers constitute a "temporary solution to a short term problem", rather than a structural component in an ethnically segmented labor market. Based on that assumption, Israeli governments have adopted regulations and procedures geared at maximizing control over labor migrants' mobility within the market and preventing their possible long term settlement.

Regarding settlement, in order to prevent extended stays in Israel, a principle of rotation operates of 1 year renewable work permits, limiting the stay of migrant workers for a total period 54 months.[19] Also, to stop labor migrants from establishing permanent residence and starting a family in Israel they are forbidden to enter the country with their spouse or any other first-degree relative,[20] and there is no recognized right of naturalization or family reunification.[21] The state does not allow residence without a work permit,

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19 Since June 2004 migrant workers in nursing and geriatric care sector can be given a work permit for more than five years, with no time limit, if a professional opinion is given that asserts that taking the worker away from his or her patient would cause damage to the latter. See Saar, Rali, "Interior Minister Poraz instigated reforms in immigration policy – his bureaucrats are not hurrying to implement them", *Haaretz*, 10 Nov. 2004, A1 and A10.

20 See the "Pregnant Foreign Worker Procedure" that states that female foreign worker who becomes pregnant while in Israel, is entitled to continue working until the date of birth, or alternately to receive a tourist (B/2) visa (if she is in her sixth month of pregnancy and onwards). The worker is requested to leave the country no later than 3 months after the date of birth. The procedure has been brought to court and is awaiting the court rule. See on Kav La'Oved website: http://www.kavlaoved.org.il/UserFiles/ rights46–file–he.doc, in English (accessed on February 8, 2009).
For more information, see the regulation with regard to pregnant foreign workers on the Ministry of Interior website: http://www.moin.gov.il/Apps/PubWebSite/ publications.nsf/All/B96025D3EC6D1EA9422570AD00463773/$FILE/Publications.3 .0023.pdf?OpenElement, in Hebrew (accessed on February 29, 2009).

21 On the right to family life of migrant workers in Israel see, Parliamentary Committee for the Examination of the Foreign Workers Problem, Protocol 39; 3.11.2004.

and only as recently as 2002-3 a procedure for granting asylum has been officially established, though there is still no coherent and sustainable asylum system put in place. Finally, the state implements a blatant deportation policy that allows the arrest and expulsion of undocumented migrants by simple administrative decree.

The strict nature of the policies regarding residence and settlement of labor migrants have been contested and repealed in Israeli courts by migrants themselves and by advocacy groups that became high profile activists on labor migration issues (Kemp and Raijman, 2001, 2004; Mundlak, 2007). Yet, while there is some evidence that policy makers and state institutions have not remained indifferent to the presence of families and children, these have been handled for the most through "humanitarian" and "exceptional" channels that have left the Israeli ethnic migration regime in place, without significant changes (on labor migrant children see Kemp, 2007).

Regarding the modes in which recruitment and employment of labor migrants are carried out, the activism of Israeli civil society seems to have been slightly more effective in bringing change, also when facing intransigent state policies and strong private vested interests. The recruitment and employment system in Israel bears the imprint of neo-liberal privatization and delegation of state responsibilities, with state institutions operating as meta-regulators or "shadow state" rather than intervening directly. The official recruitment of workers is conducted through licensed manpower agencies and employers, to whom the permits are allocated by the state Employment Service. No bilateral or multilateral agreements between the sending and receiving states have been introduced to regulate the process. By this means, the state is supposedly not party to the employment of the workers and delegates the responsibility for their recruitment, living conditions and terms of employment to the employers,

which demand from prospective labor migrants extremely high fees (from $2,000 to $20,000), even though this is explicitly forbidden by Israeli law.[22]

As for the pattern of employment, Israel enacted a contract labor system wherein work permits are granted to specific employers or mediating agencies, to which the migrant worker is indentured, thereby maximizing employers' control over the foreign population in the country. The system is detrimental to the workers themselves, as it creates a fertile ground for flagrant violations of human, civil and social rights.[23]

Moreover, the "binding system" as it is known in Israel, it has become instrumental in the creation of *illegalised* labour migrants, showing the precarious distinction between both statuses. Because work permits are granted to employers and not to employees, leaving one's original employer means becoming automatically an "illegal" worker or "run outs" in the employers' jargon, regardless of the reasons adduced. Data show that in 1999, 53% of the undocumented migrant population entered Israel with a work permit and, either overstayed it. or left their original employer (Bar Zuri, 2001). In 2003, 81% of migrant workers under arrest entered the country with a valid work permit, among these, 21% became "illegal" for one of two

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22 Reports on the recruitment process of foreign workers in Israel, show that they are subject to exploitation by private recruitment agencies, abroad as well as in Israel (Eckstein, 2007, 39; Natan, 2008a; Horen, 2008; Shaked, 2008). While the legal limit of recruitment fees is approximately $730, private recruitment agencies abroad charge high and often illegal fees from workers: ranging from $5,000 in average from domestic care-givers from the Philippines (Horen, 2008), and up to $25,000 from construction workers from China (Shaked, 2008). It is found that part of the money is transferred to recruitment agencies in Israel, mainly in the case of Chinese construction workers (Shaked, 2008).

23 Under the binding policy foreign workers are unable to demand from the employer the work conditions they are entitled to by labor laws, or take any legal measures against such violation. In any such case they are immediately fired and lose their legal status. Moreover, employers can offer their workers' services to other employers, without the workers' consent or their ability to object it (Berman, 2007); losing the work permit as a result of the binding policy has negative consequences on workers' ability to repay the loans they take to pay high and illegal recruitment fees abroad. All of the above encourages widespread exploitation and human trafficking. See Hotline for Workers Reports www.kavlaoved.org.il; Berman, 2007; Eckstein, 2007; Shaked, 2008.

reasons: they were reassigned to another employer without knowing, or their visas expired without their knowledge as their passports with the permits were confiscated by their employer (Hotline for Migrant Workers, 2003).

The excesses facilitated by the recruitment process coupled with the binding system have been conducive to a full-fledged human trafficking industry. According to semi-official pronouncements, trafficking in migrant workers in Israel has become an industry with an annual turnover of hundreds of millions of dollars (for a detailed discussion see Kemp, 2004). At the end of 2006 the *Law against Human Trafficking* came into force.[24] While for the first time, the law considers trafficking in persons for purposes of labor and other purposes as a criminal offense (in addition to legislation against trafficking in women), its implementation is still to be seen. According to the U.S. State Department's 2007 annual Trafficking in Persons Report (TIP), Israel was placed in the Tier 2, category of countries that have "made efforts to combat trafficking in human beings but have yet to fully comply with the minimum requirements".

Driven by the control logic, and backed by strong employers that enjoyed from the advantages of contract labor, consecutive Israeli governments have refused to replace the binding system throughout the 1990s. More recently, though, there have been some important developments which seek to confront, at least partially, these distortions. The *first* is a government decision, limited to the construction sector, to bring to an end (as of May 1st, 2005) the direct binding of migrant workers to individual contractors. Instead, a "corporate binding" was introduced, according to which few dozen Licensed Manpower Companies (LMCs) are to be assigned permits to employ migrant workers, and to allocate these workers to individual contractors. Each migrant worker is free to register with the LMC he would like to work for. Workers are also free to change their LMC every three months, or earlier, in case of infringement of rights (Ministry of Industry, Trade and Labour, 2005c).[25] The second, more

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24 See on the Knesset website: http://www.knesset.gov.il/privatelaw/data/17/3/231_3_1.rtf, (accessed on February 28, 2009).

25 See on the ITL website: http://www.moital.gov.il/NR/rdonlyres/08BCE686-C3B2-474C-B92C-2DAF35A4FD41/0/20047211.pdf, in Hebrew (accessed on February 8, 2009).

substantial change, has been the 2006 ruling (30th of March) by Israel's High Court of Justice, which ordered the complete repeal of the binding regulations. The Court ordered the state to establish a new policy within six months, where migrant workers will not be bound to a single employer. However, it was not until November 2008 when the new arrangement was announced. In the proposed system workers will register in private agencies and will be able to change employers after the first year, and preference will be given to foreign workers who are already within Israel (Natan, 2008b).

The new arrangement hasn't been applied yet, and both the implementation of the Law against Human Trafficking and the "corporate binding" are far from satisfactory in terms of compliance with human and labor rights standards. Yet, it seems that they point at the incipient reversal of prevalent policy paradigms with a stronger emphasis put on the control of entry and permit allocation alongside a more relaxed grip on internal control. This reversal, which as mentioned has been so far mainly "in the books", may also put an end to the dynamics of "revolving doors" that allowed so far for the recruitment of large numbers of migrant workers and at the same time for their all too easy deportation.[26]

6. Immigration and the Spanish Welfare Regime

Spanish authorities have tried to adapt to a rapidly changing migratory reality, mostly focusing on the design and implementation of a policy of border control (complex task given the limitations of geography, materials and policies), and did not articulate a (even minimal) coherent framework to handle the growing diversity resulting from the settlement of large immigrant groups in Spain. Moreover, the intensification of immigration has coincided with an intense process of federalization: devolution processes and the

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26 For evidence that this reversal, if indeed taking place, will encounter serious opposition specially in the elderly care giving sector, see the protocol of the Parliamentary Committee for the Examination of the Foreign Workers Problem meeting held on December 16, 2008, http://knesset.gov.il/protocols/data/rtf/zarim/2008-12-16.rtf, (accessed on February 8, 2009).

difficulties of articulating a general political framework for the distribution of competences between the central, the regional and the local spheres of government. This lack of a consistent policy model does not mean that the Spanish authorities have refrained from intervening in this sphere of policy, but they have done so without a common agreement of all administrations of the Spanish State on how to address these issues. At this point it should be noted that the distribution of responsibilities and competences on migration at the central government level are concentrated on the domain of border control policies (visas, quotas, work and residence permits, asylum, etc.) as well as on the definition of the basic set of rights that must be granted to every person in Spanish territory, leaving the regions and municipalities with most of the responsibilities for the financing and provision of benefits and services more directly related to the incorporation of new residents into the receiving society (health, education, housing or social services, for example).

For their part, the regional (and some local) governments have faced the challenges of the growing internal diversity of the population residing in their territories through their own ideas of how such integration should take place. Such ideas have been influenced at times by their own previous experiences in this field. This is the case in Catalonia, where the experience of the incorporation of successive waves of migration from the South of the country since the late XIXth century has been explicitly mentioned in the preparation of its Plans (1993, 2001 and 2005) for the incorporation of the current migratory flows arriving from developing countries. Many other regions have developed their own plans for inclusion of immigration, following their own "policy paradigms" about the management of diversity. The result of the actions of these administrations is the emergence of a regulatory framework which, as if it was a "collage", consists of models that range from the more pro-active, aimed at facilitating a more rapid integration of the populations of immigrant origin in the receiving society through a strong involvement of public institutions, to models based on "laissez-faire" attitudes which rely on the operation of free markets (employment, housing or marriage) to incorporate the new residents.

Abounding in that lack of consideration for the need to integrate the immigrant populations, the previously mentioned 1985 Law did not recognised the immigrants' right to family reunion. Similarly, it did not

expand on the issue of the immigrants' rights to access the social protection schemes (health care, education, personal services, housing), leaving this issue unregulated and in the hands of the authorities of the regional governments (the level of authority that exercises most of the competences in the domain of Welfare). The result of was a lack of co-ordination between the different regional governments, and the appearance of severe inequalities in the access of immigrant populations to basic social services.

During the 1990s Spanish authorities tried to elaborate a more sophisticated set of incorporation policies to be applied within a growingly complex policy environment. By then it was already clear that migrants were not only using Spain as a transit platform to move towards other European countries. Despite the restrictive family reunion policy applied, primary migrants had managed to bring their relatives to Spain, and their children represented a growing share of the pupils in certain schools. The development of growingly diverse immigrant communities within Spain implied an altogether different image of immigration, and a series of brand new challenges to public services (particularly to social protection schemes).

The tensions between the border control philosophy embedded in the 1985 Law, and the respect for the basic rights of the individual, was in fact addressed by the Spanish judiciary in several occasions. Its intervention went from rulings by different Courts criticising specific aspects of the legislation as well as their application by the public administrations (in particular issues related to expulsions, denial of the *habeas corpus*, and detention of undocumented immigrants beyond the time limits established by the law), to a Constitutional Court ruling declaring unconstitutional several articles of that Law that aimed at limiting the meeting and association rights of foreigners. In several of his annual reports the Ombudsman also expressed his concern over the situation of marginalisation suffered by immigrants from less developed countries, in particular by those without work or residence permits. Role of the courts in overruling discriminatory policies and human rights violations.

Although in absolute terms immigrants from developing countries still represented less than 3% of the total Spanish population at the beginning of 2003, the novelty of their presence, their high concentration in certain regions of the country (Catalonia, Madrid, and the Mediterranean coast), the attention immigration received in the media, together with the activities of some uncoordinated but locally powerful xenophobic entrepreneurs, contributed

to the salience of immigration in the Spanish public opinion. Several racist incidents occurred in different towns since the late 1990s (notably in El Ejido, Terrassa, and Figueres), highlighted the need for a higher degree of involvement by public authorities to facilitate the incorporation of immigrant populations into Spanish society, and to refrain the development of xenophobic and racist sentiments within the Spanish population.

The new immigration Law (4/2000, later reformed by the 8/2000), passed in December introduced significant changes in the area of rights for immigrants living in Spain. While it equalised the civil and social rights of legal foreign residents with those of Spanish nationals, and it established the possibility of voting rights at the local level (in the grounds of the existence of reciprocity agreements with the sending countries), it also extended the right to free access to health care, education, and public housing schemes for undocumented immigrants. These entitlements to social rights were based on the criteria of residence (inscription of the Census), moving somehow in the direction of de-coupling of nationality and citizenship rights.

During the debate of the new immigration Law in Parliament, the tensions between the two different approaches to immigration issues (closure vs. integration), appeared not only between the different political parties, but also within the Parliamentary group of the PP in government, and among the different Ministers of the Cabinet.[27] In that context, the argument of the

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27 On the one hand, the MPs of the PP that participated in the drafting of he bill, together with the Minister for Labour and Social Affairs, praised the consensual manner in which the bill had been drafted, and the positive steps towards the integration of immigrant populations within the Spanish society that the new Law represented. On the other, a series of Ministers (Economy and Finance, Interior, Foreign Affairs), backed by the President of the Government, showed their concern for the unexpected consequences that could derive from the implementation of the new immigration bill. For the Minister of Economy, the cost of the extension of social rights to undocumented immigrants would be an extremely high burden to the finances of the Spanish welfare state. In particular, the cost of granting access to health care for undocumented immigrants could represent some 45 million Euros a year, only for an estimated population of 80,000 undocumented immigrants. For the Ministers of Interior and Foreign Affairs, the new Law would be by far the most progressive in the EU, and that was difficult to handle for a country like Spain so exposed to the inflows of illegal immigrants, and with a responsibility for guarding the Southern border of the EU.

immigration policies promoted by the EU played an important role in the debates, although every side took the aspects that better suited their interests. For those defending the need to expand immigrant's rights, EU documents and drafts for common policies emphasised the need for integration of immigrant populations. To this argument, those defending more restrictive positions argued that all measures promoted by the EU to integrate immigrants were referred to legal residents, and explicitly exclude undocumented immigrants.[28]

The Welfare Regime in Spain, as part of the Mediterranean model, has traditionally been predominantly oriented towards pension provision, based on contributions to social insurance schemes, and has been strongly reliant on the family to provide the most basic care services. The unpaid work of spouses, daughters and daughters-in-law traditionally constituted the most important source of care for older dependant people in both of these countries. Public policies have long assumed the family to be the provider of care, and the weak, fragmented and residual social policies in this field were only supposed to play a subsidiary role (Ferrera, 1996; Rodríguez Cabrero 2006). The general trend towards the expansion of universal coverage schemes in many of the Welfare systems, however, (namely education and health care, but to a certain extent also the personal social services) has altered this pattern, defining the criteria of accessibility to an increasing extent on the basis of residence in the territory, which has clearly changed the situation.

The importance of migration as a factor driving the Spanish economy has been recently recognized by several studies that estimated the contribution of this process to the evolution of the Spanish GDP by 3.2% annually in the decade 1995-2005 (Caixa Catalunya, 2006). In recent years, the volume of migrant workers registered in the Social Security (SS) system has increased

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28 The granting of those rights to all immigrants may be in fact against the current treatment of the issue at the EU level, as the strategy paper on immigration elaborated by the Austrian Presidency clearly stated: "*No European country today would consider going it alone in opening up the right of asylum, making access easier for immigrant workers or increasing social security benefits for immigrants. Such topics do not therefore need to be discussed even at regular intervals*" (European Council, 1999).

in a very significant manner (to more than 13% of the total affiliated labour force), but these workers have been affected by high levels of precariousness (temporary employment, job instability and high presence in the informal economy), which could have important implications both for the system of unemployment benefits, and for the situation of social exclusion of those who lose their jobs in a context of recession as the one experienced at this moment.

The sustainability of the SS system is one of the most often referred when talking about the impact of migration on the Welfare system. The general argument points to a relatively simple idea: if European societies (including particularly Spain) are moving towards a significant deterioration in the dependency ratio (ratio between inactive and working people), largely as a result of the increased ageing of their populations, the influx of migrant populations of working age is one of the most obvious ways, if not to reverse, at least to slow down the process of deterioration of the finances of the SS system. Thus, the government pointed at the regularisation of 2005 as a way to contribute to improve the finance of the SS. As it can be concluded from the experience of countries with a longer tradition of migration, some of those immigrant workers may return to their home countries when they retire, but a majority of them will remain in their host country, and therefore they will have to receive the transfers to which they will be entitled. This in turn raises a series of challenges relating to the care of elderly people from different social and cultural environments and, by the same immigration process that brought them to Spain, probably lack the solidarity networks (extended family, for example) that may have cared for them in their home country.

Populations of immigrant origin in Spain tend to concentrate in urban areas (suburbs, housing projects and historic urban centres in decay) previously degraded, with little residential or tertiary interest to the autochthonous population, and which had already begun a process of replacing the traditional inhabitants (indigenous working class, and sometimes even some sections of middle classes) for people on low incomes who cannot undertake the investments necessary for the maintenance of the housing prior to the arrival of these new settlers. The relative disadvantage of these areas is often the result of poor urban planning reflected in a deterioration of the housing stock, little investment in infrastructure and equipment, and deficient structuring

of the urban fabric. These dynamics produce processes of social exclusion (unemployment, destruction of the economic tissue of the area, disappearance of commerce of proximity, deterioration of the public space) that is further reinforced with the arrival of people of immigrant origin. These new residents settle in these areas because of the relatively lower prices, and for the existence of communities of fellow nationals who provide the networks of solidarity necessary for the construction of their new life in the receiving society.

The precarious economic situation of many of these immigrants, along with the practices of discrimination in the housing market (primarily for renting), results in the emergence of overcrowding, exploitation (often between members of the same community), and an extensive use of a housing stock which is already very close (or even beyond) its life use (thus allowing its owners to continue extracting wealth from those houses) (Martínez Veiga, 1999).

The concentration of immigrant populations in disadvantaged neighbourhoods have serious effects over time. The reinforcement of the segregation process as a result of the "avoidance" strategies developed by some of the autochthonous inhabitants which still lived in these neighbourhoods escaping the "ghetto" of immigrants has a "self-fulfilling prophecy" effect, and feeds the complex dynamics existing between social exclusion and spatial segregation, mediated by the negative impact of segregation on the formation processes of various types of capital (educational, social, relational) (Maurin, 2004), as well as in the processes of stigmatization that hinder the social mobility of residents in disadvantaged areas.

The issue of housing and urban development have been virtually absent from the political agenda in relation to migration in Spain (beyond its strictly economic dimension relating to the construction sector, land planning and its complex ramifications). This has happened despite the growing magnitude of the housing problem, the strong trends towards residential segregation and the emergence of a growing number of districts in which in a few years the population of immigrant origin has grown to become a very considerable proportion of the residents. The "no-model" of diversity management existing in Spain seems to have left this issue in the hands of the market, but it is quite likely that a greater involvement of public authorities in this area of policy will be necessary in the near future in order to deal with some of the problems of anomie among the "second generation" of young people of immigrant origin growing in Spain.

The settlement of large groups of immigrant origin has posed specific challenges to the Spanish educational system which has a number of specific problems of its own (high rates of school failure, inequality and low levels of education). This system constitutes an important part of the mechanism of inclusion of new citizens into their receiving society, so the policies of diversity management applied in this area will be particularly important.

The first issue in relation to immigration and the education system is the trend towards the concentration of students of immigrant origin in certain schools. Again, this process of segregation already existed within the Spanish educational system (in terms of income and social background of the parents), but it becomes more visible now by the arrival of the students of migrant origin. The existence of two parallel and distinct educational networks (one public, the other private but largely publicly financed) has traditionally been one of the main sources of educational inequalities in Spain. Thus, private schools enrol only 13% of pupils from the lower classes, as their students come mainly from the middle, upper middle and higher classes (Prats and Raventós, 2005). Today, approximately 80% of pupils of immigrant origin study in public schools, while only 17% do it in private schools (Izquierdo, 2004), constituting these students some 7.8% of the pupils in the public education, and only 3.7% of pupils in private schools during the 2004-05 academic year (López Peláez, 2006). This situation would arise from a series of factors ranging from the increasing spatial segregation of immigrant groups in certain regions (Madrid, Catalonia, Andalusia and the Canaries) and neighborhoods, and the tolerated inhibition of the private school system, passing by the strategies of "avoidance" of the autochthonous middle classes. Thus, in 2005 there were already more than 50 primary schools in Madrid, Valencia and Catalonia in which more than two thirds of students were of foreign origin (Prats and Raventós, 2005).

The somehow intuitive hypothesis that a higher proportion of students of immigrant origin in a particular school must have a negative impact in the academic performance of students enrolled in it is widespread, both among citizens and between education professionals and scholars of migration. This idea is challenged by Carabaña (2004), who after a review of the international evidence on this issue concludes that the difficulties posed by the concentration of children of immigrant origin in certain schools would in

fact result from a lack of planning by the education authorities, and problems of school integration of these children would have a relatively simple solution. A similar finding seems to be provided by the results of the tests performed by education authorities of the Madrid region in the 2004-05 academic year, in which schools with significant percentages of students of immigrant origin achieved the highest scores (López Peláez, 2006). Despite the interest of these arguments, it should be noted that the tensions experienced by those schools where the percentage of pupils with learning difficulties and in need of specialized care is high are real (Prats and Raventós, 2005). Likewise, we should not underestimate the importance of social beliefs which, as we previously mentioned, have the capacity to operate as self-fulfilling prophecies.

The model of diversity management implemented by the education authorities in relation to the cultures of origin of immigrant groups, as well as the relationship of young people of immigrant origin with the culture of the host society, will be key to the articulation and development of a society that is faced with a de facto increasing cultural diversity in its streets (and therefore in its classrooms).

The study of the process of extension of health coverage to the populations of immigrant origin in Spain has been studied in another article of this initiative so we will just very briefly mention here that incorporation of immigrants to the benefits of the Spanish National Health System (*Sistema Nacional de Salud* – SNS-), regardless of their legal status, was granted by the 4/2000 Law in the same conditions as Spanish citizens (Moreno Fuentes 2004). Despite this legal extension of health coverage, some problems remain for the materialisation of that right for some groups of immigrants in a precarious administrative situation, due to the existence of dissonances between the regulation and the actual practices implemented by "street-level bureaucrats" (Lipski, 1980).

The considerations on the issue of health equity in relation to immigrant populations (responding to specific demands with special programs targeted to these groups), have also been subject to changes in the sparsely developed debate on equity in health in Spain. The intervention of the health authorities to address the overload of demand (particularly in primary care centres and hospitals' emergency rooms) in those areas in which, due to the processes of

residential segregation to which we referred earlier, a deterioration of services is taking place, breeding the feelings of rejection of the newcomers among the autochthonous populations (who tend to blame migrants for this reduction of the quality of the services they receive instead of pressing the authorities to increase the resources allocated to cater for a growing population).

7. Labour Migration and the Israeli Welfare Regime,

Similarly to the Spanish case described above, Israeli authorities did not articulate a coherent framework to handle with the social and human complexities created by labour migrations. While most of the efforts were put on immigration control policies, and in the labour market and deportation policies, no attempt was made to address incorporation issues. Such an attempt would undermine the claim made by state officials that these "were not migrants but workers", which is the very *raison d'être* of temporary labour migration programs, and run against the definition of Israel as an "*alyiah*", but not as an immigration state.

Surely, migrant workers in Israel do have rights, including social and labour rights. From a juridical point of view, Israel is signatory to international conventions such as that of the International Labor Organization on labor migration (1949), which the Israeli Knesset ratified in 1953, and the international convention for the protection of children. Moreover, Israel is outfitted with progressive labor laws regarding minimum wage, work hours and conditions, national social insurance and gender equal employment, among other. These place the Israeli case nearer to the social democratic end of the welfare regime continuum. The territorial definition of these laws means they ought to be applied without discrimination to all residents of Israel, whether they are citizens or not, and until recently, some of them applied also irrespective of legal status in the country.[29] In practice, a gap exists between

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29 For detailed information see "Foreign Workers Rights Handbook" on the ITL website: http://www.tamas.gov.il/NR/rdonlyres/3E8413EA-F5FD-45EB-8CD7-5964EC8E4B1D/0/hebrewn.pdf (accessed on February 10, 2009).

the contents of these laws, which are supposed to serve migrant workers as well, and their implementation *(*Yanay and Borowosky, 1998).

A similar gap exists with regard to migrants' access to welfare services. The state has for most of the 1990s ignored the special needs of this population since acknowledging them would have implied recognizing foreign workers as legitimate residents of the nation-state. Yet, despite the exclusionary character of the immigration regime, state policies have not been homogeneous, and different state agencies have sought to advance the partial and segmented inclusion of labor migrants within the social protection schemes (Rosenhek, 2000). The clearest example has been the inclusion of migrant workers' children, most of them undocumented, within a semi-privatized health insurance coverage partly subsidized by the state. This was achieved through pressures exerted from "below" by human rights organizations, and also driven from "above" by the public health logic of governmental offices (Davidovitch and Filc, 2007).[30]

More significantly, perhaps, the overall state-led "migration policy without migrants" has set the stage for the creation of an "immigrants policy without the state," conducted by municipal authorities in the city of Tel Aviv-Jaffa. During the last decade, these have actively sought to develop alternative channels of incorporation for the inclusion of non-ethnic migrants and their families (Kemp and Raijman, 2004). In that sense the Israeli case exemplifies devolution processes occurring elsewhere as a result of welfare state's retrenchment, and the kind of political realignment between the urban and the national taking place within a globalized context of labor migration.

The crux of the Tel Aviv case is that its migrant-directed policy bears mainly on undocumented labor migrants. Most undocumented labour migrants have concentrated in the metropolitan area of Tel Aviv, more specifically in the

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30 The intensification of labor migration coincided with a major trend of welfare state retrenchment taking place in Israel since the 1980s and that signaled a departure from the social democratic model of welfare and social protection which Israel adhered to for many years to an American model of limited government role in the supply of services and social protection (Doron, 2001: 102). The main forms of implementing roll back welfare policies has been through substantial cutback on public welfare spending and making structural changes in existing programs in the realms of education, health, social security, and social welfare services.

southern neighbourhoods of the city. According to municipal estimates, up until the big deportation campaigns that took place in 2003-2006, labour migrants made up between 15 to 20 % of the city's population. By contrast, labour migrants with papers are scattered all around the country and tend to live near their worksite.[31]

The situation of undocumented migrants that have settled, formed families and established communities is the starkest reminder of the unintended consequences of labour migration systems. Aware of the challenges entailed in the phenomenon, and while politicians in office have repeatedly presented the undocumented migrant communities as a "ticking bomb" municipal authorities took the first step in articulating incorporation policies directed to labor migrants that diverge drastically from the national policies.

One of the first moves in that direction was the establishment of the Aid and Information Center for the Foreign Community in Tel Aviv-Jaffa (MESILA in Hebrew) in 1999, center that has developed urban channels of incorporation oriented to labor migrants. These channels focus on three main areas: the allocation of social rights and services to migrants regardless of their formal status, especially in the field of education and population at risk; the provision of competencies to utilize those rights, which include community outreach and community building activities; and advocacy on migrants' issues.[32]

The creation of a municipal infrastructure aimed at the incorporation of migrant workers, alongside the active participation of a wide array of non governmental organizations and philanthropic associations, have recently

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31 Southern Tel Aviv quickly became the epicentre of labour migrants' lives – not only in *quantitative* terms. Also in *qualitative* terms, on account of the multitude of commercial, cultural and communal services that developed there, for the migrants and by them. And finally, in *symbolic* terms, as it came to symbolize the growth of a myriad of new urban communities and overlapping "ethnic enclaves". At the same time, the area also came to symbolize to the Israeli authorities – as well as to the more conservative and religious sectors of Israeli society – "*the problem of the foreign workers*". It thus served as a clear sign that labour migration in Israel was not a temporary phenomenon, and that some of the emerging communities were already striking roots.

32 For a full description of the services provided see MESILA's, website: *www.tel-aviv.gov.il/Hebrew/Human/Foreign/Index.asp.*

proved critical in dealing with the great influx of asylum seekers from Sudan and sub-Saharan Africa. While state agencies were not equipped for dealing with this new pattern of migration, it seems that the Tel Aviv's experience with labor migrants' communities has become part of the trademark of the city as the epicenter of non-ethnic migrations in Israel. Yet, as it was the case with labor migrants before, local incorporation policies may offer an "urban citizenship" of sorts, indispensable for undocumented individuals and communities in their daily lives, but they offer no guarantee or immunity from deportation and social exclusion (Kemp and Raijman, 2004).

8. Conclusion and Challenges

We began this article by arguing that nation-states have markedly different and deeply rooted conceptions as to what constitutes the national community, which bear directly on the modes of control and incorporation of immigrants. The notion of "policy paradigms" conveys precisely this idea on the strong links between national definitions of "who belongs" or "who does not belong" into the national community, and has a strong effect on the situation of those that may be "wanted", but not necessarily "welcomed". We have also focused on how the nexus between migration control and welfare rights lies at the heart of the attempts made by most democratic states to manage the "contradictions" between pressures to expand migration, and a countervailing pressure for closure exerted by limits on national resources, and the search for cultural homogeneity.

But "policy paradigms" are obviously not crystallized notions immune to change. As we have aimed at showing in this paper, when we move away from the abstract generalizations on the guiding principles of border control policies, and the logic behind the constructs on the "deservingness" to welfare entitlements, it becomes evident that authorities responsible for practically handling these areas of policy develop pragmatic approaches aimed at "muddling-through" complex scenarios characterized by entrenched and often conflicting interests, political strategies and a stubborn reality that refuses to "go away" at the will of policy-makers.

There is considerable evidence from research literature showing that the settlement of heterogeneous groups of immigrants poses a series of important

challenges to the economic, social and political systems of receiving countries. Definitions of nationhood are important, but they do not determine immigration policies in a direct and non problematic fashion as often assumed by the notion of immigration regimes. Indeed, as pointed out by Joppke, rather than assuming that "ethnic" nations have ethnic immigration policies, whereas "civic" nations have non ethnic, universalistic immigration policies, it would be more adequate to postulate that there is a growing inherent tension between universalistic and particularistic elements in liberal democracies, the first commanding non-ascriptive criteria and equity in selecting immigrants, and the latter commanding the opposite so as to reproduce the national "community of character" (Joppke 2005, p. 18). These tensions are further accentuated by the simultaneous contemporary quest for open markets and social homogeneity.

It can be said that the Spanish immigration policy paradigm, undefined as it is, specifically in its integration dimension, has been gradually moving towards a "hard on the outside-soft in the inside" combination, reflecting Spain's position between the EU supranational pressures towards border closure, and the pull of the important role played by its informal economy. Although the administrative skills of the Spanish state in relation to immigration issues were nil some fifteen years ago, the handling of a growing multifaceted phenomenon has considerably increased its capacities. Irregularity remains a very important characteristic of the stock of migrants living in Spain, but mechanisms have been embedded into Spanish immigration policies to handle that phenomenon by opening automatic, time related, paths towards legality. Integration policies have remained to a large extent in paper, but a network of agencies, research bodies and forums have developed the capabilities to implement a more sophisticated set of policies to facilitate the incorporation of immigrant populations into the Spanish society. Third sector organisations have played a significant role in that direction, by fulfilling the tasks that the state was not willing or prepared to accomplish, while retaining their role as advocacy groups in the interest of immigrant populations.

Conversely the Israeli case falls squarely in the "soft on the outside-hard in the inside" variation of immigration policy, and it exemplifies the numerous contradictions introduced by new patterns of migration, to a great extent solicited through the enactment of a temporary labor migration program. It

shows that notwithstanding the resilient ethno-national model of immigration policy in which Israeli policies, laws and regulations are grounded, in dealing with non ethnic migrations Israeli officials, and its "reluctant" nature as a de-facto immigration state, decision makers and courts have had to balance between what Joppke has called the "nationhood" and "liberal" vectors of immigration policy.

The decision of the Israeli government to naturalize 900 migrant workers' children and their families in 2006 is a case in point. The unprecedented decision followed after an intensive campaign run by local third sector organizations, but also by the understanding that not allowing those children to stay and hold a status, would "deprive them from cultural ties" to the only country they have known. "Today these children are in fact non-existent", said the Minister of Interior Affairs at the time, "Although Israel is the only country they know, they have no identity card number and, therefore, cannot be given medical insurance, get a passport, or visit their land of origin. They become prisoners here, and when they graduate from high school, they cannot find regular work or continue to higher education" (quoted in Kemp, 2007: 683). Defined as a "humanitarian" decision and designed as a "one time" retroactive arrangement, the naturalization of children and families showed that mechanisms for ascribing state membership may become flexible legal tools that allow multiple interpretations and combinations that states (whether liberal or ethnic) do not hesitate to employ when they see fit. Given the stringent stance shown by both the executive, and lately also by the legislative, in matters of naturalization and family reunion regarding non-Jewish immigrants, it is still to be seen the nature of the solutions offered to the immigration challenge.[33]

Realistically, migratory pressures are unlikely to decrease in the foreseeable future, and long-term measures that go beyond transforming migration transition countries into buffer areas to prevent migratory flows, will have to be implemented to handle this phenomenon. Although the level

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33 For a thorough description of the phenomenon, see Oded Feller, ACRI, The Ministry: Violations of Human Rights by the Ministry of the Interior's Population Registry (2004), http://www.acri.org.il. See also, Citizenship and Entry into Israel (Temporary Order) Law, 2003, S.H. 544.

of politicisation of immigration issues in Spain and Israel has remained relatively low, with no extreme right parties directly capitalising on the issue of immigration, the appearance of xenophobic entrepreneurs, specifically in areas with a higher concentration of immigrants, is probably only a matter of time. When/if these forces appear, the public profile of this area of policy is quite likely to gain visibility, and with it the policy environment in which policy-makers have managed to "muddle-through" during the last years will be significantly transformed.

The fight against discriminatory treatment constitutes not only a very important dimension for the present in terms of justice, but also a key aspect for the future if the second generations of migrants, born and grown in the receiving country, are to be fully incorporated in these societies. The relation between the Welfare Regime and the populations of immigrant origin will have to evolve in such as way that, once issues of equality of access are solved, the more complex issue of equity (adapting the provision of services to cater for a more diverse structure of demand) is adequately dealt with.

Bibliography,

Al Haj, M. and Leshem, E. 2000. Immigrants from the former Soviet Union: Ten years later. A research report. Haifa: The Center for Multiculturalism and Educational Research, University of Haifa (Hebrew).

Arriba González de Durana, A., Calzada, I. y Del Pino Matute, E. 2006. Las actitudes de los españoles hacia el Estado de Bienestar (1985-2005). Madrid: CIS.

Baldwin-Edwards, M. and Arango, J. 1999. Immigrants and the Informal Economy in Southern Europe. London and Portland: Frank Cass.

Banting, K. and Kymlicka, W. (eds.) 2006. Multiculturalism and the Welfare State. Recognition and Redistribution in Contemporary Democracies. Oxford: Oxford University Press.

Bartram, D. 1998. Foreign workers in Israel: History and theory", International Migration Review 32: 303-325.

Bar-Zuri, R. 2001. Foreign workers without permit in Israel, 1999. Discussion paper 5.01, Jerusalem: Ministry of Labor and Welfare Affairs, Manpower Programming Authority (Hebrew).

Berman, Y. 2007 Freedom Inc. – Binding Migrant Workers to Manpower Corporations in Israel, August, Kav La'Oved and Hotline for Migrant Workers.

Bosniak, L. 2007. Being Here: Ethical Territoriality and the Rights of Immigrants, *Theoretical Inquiries in Law*, 8 (2).

Brubaker, R. 1992. Citizenship and Nationhood in France and Germany. Cambridge, MA.: Harvard U. Press.

Caixa Catalunya 2006. Razones demográficas del crecimiento del PIB per capita en España y la UE-15. Informe semestral I/Economía Española y Contexto Internacional. Barcelona: Caixa Catalunya.

Calavita, K. 2005. Immigrants at the Margins: Law, Race, and Exclusion in Southern Europe. Cambridge: Cambridge University Press.

Carabaña, J. 2004. Natalidad, inmigración y enseñanza. Información Comercial Española, n.815, May-June, pp. 81-104.

Cea D'Ancona, M. A. 2004. La activación de la xenofobia en España. ¿Qué miden las encuestas? Madrid: CIS.

Cohen, S., Humphries, B., and Mynott, E. (Eds.) 2002. From Immigration Controls to Welfare Controls. London and New York: Routledge.

Cohen, Y. 2001. From Haven to Heaven: Changing Patterns of Immigration to Israel, in D. Levy and Y. Weiss (Eds.) *Challenging Ethnic Citizenship: German and Israeli Perspectives on Immigration*. New York and Oxford: Berghahn Books, pp. 36-56.

Colectivo IOÉ, and Pérez Molina, R. 1995. La discriminación laboral a los trabajadores inmigrantes en España. Geneva: International Labour Organisation.

Cornelius, W. 2004. Spain: The Uneasy Transition from Labor Exporter to Labor Importer, in Cornelius, W.A., Tsuda, T, Martin, P.L., and Hollifield, J. (Eds.) *Controlling Immigration: A Global Perspective*. Stanford, CA: Stanford University Press.

Cornelius, W. and Rosenblum, M. 2005. Immigration and Politics, *Annual Review of Political Science* 8: 99-119.

Davidovitch, N. and Filc, D. 2007. Rights, Citizenship and the National State: Migrant Worker Health Policies in Comparative Perspective, in Willen, S. (Ed.) *Transnational Migration to Israel in Global Comparative Context*, Lanham, Boulder: Lexington Books, pp. 103-122.

Dietz and Agrela 2004. Commentary, in Cornelius, W. A., Tsuda, T, Martin, P. L., and Hollifield, J. (Eds.) 2004 *Controlling Immigration: A Global Perspective*. Stanford, CA: Stanford University Press, pp. 430-436.

Doron, A. 2001. Retrenchment and progressive targeting: The Israeli experience, in N. Gilbert (Ed.) Targeting social benefits: International perspectives and trends. New Brunswick and London: Transaction Publishers.

Eckstein, Z. 2007. Report by the Inter-ministerial Committee for the Formulation of Labor Migration Policy, September 20 (Hebrew).

Esping-Andersen, G. 1990. The Three Worlds of Welfare Capitalism. New York: Polity Press.

Favell, A. 1998. Philosophies of Integration. Immigration and the Ideal of Citizenship in France and Britain. London: Macmillan.

Ferrera, M. 1996. The "Southern Model" of Welfare in Social Europe. *Journal of European Social Policy* 6 (1), pp. 17-37.

Freeman, G. 1986. Migration and the Political Economy of the Welfare State. Annals of the American Academy of Political and Social Science, 485 (1): 51-63.

Geddes, A. 2003. The Politics of Migration and Immigration in Europe. London: Sage.

Geddes, A. 2004.Migration and the Welfare State in Europe, Political Quartely 74(1): 15-162.

Guiraudon, V. 2000. The Marshallian Triptych Reordered: the Role of Courts and Bureaucracies in Furthering Migrant's Social Rights, in BOMMES, M. and GEDDES, A. (eds.), Immigration and Welfare. Challenging the Borders of the Welfare State. London: Routledge, pp. 72-89.

Guiraudon, V. and Lahav, G. 2000. A Reappraisal of the State Sovereignty Debate: The Case of Migration Control, *Comparative Political Studies* 33(2): 163-195.

Hammar, T. 1990. Democracy and the Nation State. Aliens, Denizens and Citizens in a World of International Migration. Aldershot: Avebury.

Horen, S. D. 2008 Recruitment fees charged from domestic care-givers in Israel, a report by Kav La'Oved (Hebrew).

Izquierdo, A. 2004. El Greco suspende un parcial (Balance de la inmigración en España 2000-2003), in Navarro, V. (Dir.) El Estado de Bienestar en España, pp. 121-160. Madrid: Tecnos.

Jacobson, D. 1996. Rights across Borders. Immigration and the Decline of Citizenship. Baltimore: Johns Hopkins U. Press.

Joppke, C. 1999. The Domestic Legal Sources of Immigrant Rights: The United States, Germany, and the European Union. Florence: European University Institute.

— 2005. *Selecting by Origin: Ethnic Migration in the Liberal State,* Cambridge, MA.: Harvard University Press.

Kemp, A. 2004. Labor Migration and Racialisation: Labor Market Mechanisms andLabor Migration Control Policies in Israel, *Social Identities* 10(2): 267-292.

— 2007. "Managing Migration, Reprioritizing National Citizenship: Undocumented Labor Migrants' Children and Policy Reforms in Israel", *Theoretical Inquiries in Law* 8(2): 663-691.

Kemp, A. and Raijman, R. 2001. Non-state Actors and the New Politics of Labor Migration in Israel, *Israeli Sociology* 3 (1): 79-127 (Hebrew).

— 2004. "Tel Aviv is Not Foreign to You: Urban Incorporation Policy on Labor Migrants in Israel, *International Migration Review* 38: 26-51.

— 2008. *Foreign and Workers: The Dual Political Economy of Labor Migration in Israel*, Kibbutz Hameuchad and Van Leer Institute Publishing House (Hebrew).

Kemp, A., Raijman, R., Resnik, J. and Schammah-Gesser, S. 2000. Contesting the Limits of Political Participation: Latinos and Black African Migrant Workers in Israel, *Ethnic and Racial Studies* Vol. 23(1): 94-119.

Kimmerling, B. 2001. *The Invention and Decline of Israeliness: State, Society, and the Military*. Berkeley: University of California Press.

King, D. and Waldron, J. 1988. Citizenship, Social Citizenship and the Defence of the Welfare State. British Journal of Political Science 18:415-43.

Liebelt, C. 2008. On Sentimental Orientalists, Christian Zionists, and Working Class Cosmopolitans: Filipina Domestic Workers' Journeys to Israel and Beyond, Critical Asian Studies 40(4): 567-585.

Lipski, M. 1980. Street-Level Bureaucracy. Dilemmas of the Individual in Public Services. New York: Russell Sage Foundation.

López Peláez, A. 2006. Inmigración, educación y exclusión social. Sistema, n 190-191, pp. 291-309.

Marshall, T.H. 1964. Class, Citizenship and Social Development. Chicago: University of Chicago Press.

Martínez Veiga, U. 1999. Pobreza, segregación y exclusión espacial: la vivienda de los inmigrantes extranjeros en España. Barcelona: Icaria.

Maurin, E. 2004. Le ghetto français. Enquête sur le séparatisme social. Paris: Seuil.

Money, J. 1999. Fences and Neighbors: The Political Geography of Immigration Control. Ithaca and London: Cornell University Press.

Messina, A.M. 2007. The Logics and Politics of Post-WWII Migration to Western Europe. Cambridge: Cambridge University Press.

Moreno Fuentes, F. J. 2006. To Jump or to Sail? Analyzing the Flows of Undocumented Migration into the European Union through the Southern Spanish Border. Policy Brief 06-01. Ford Institute for Human Security: http://www.fordinstitute.pitt.edu/docs/policy_briefs/PolicyBrief-Moreno-Fuentes.pdf

— 2004. Políticas sanitarias hacia las poblaciones de origen inmigrante en Europa. Madrid: Consejo Económico y Social.

Mundlak, G. 2007. "Litigating beyond Law of Return", in Willen, S. (Ed.) *Transnational Migration to Israel in Global Comparative Context*, Lanham, Boulder: Lexington Books, pp. 51-72.

Mynott, E. 2002. Nationalism, Racism and Immigration Control: From Anti-racism to Anti-capitalism, in Cohen, S., B. Humphries and E. Mynott (Eds.) From Immigration Controls to Welfare Controls. London and New York: Routledge, pp. 11-29.

Natan, G. and Tzwebner, S. 2009. Data on foreign workers and regularization procedures, January 29, The Knesset Information and Research Center (MMM) (Hebrew).

Natan, G. 2008a. The Ministry of Foreign Affairs' treatment of labor migration issues, December 30, The Knesset Information and Research Center (MMM) (Hebrew), (date accessed February 3, 2009) http://www.knesset.gov.il/mmm/heb/MMM–Results.asp?Catld=9.

— 2008b. Examination of the new employment method in the care-giving sector, December 11, The Knesset Information and Research Center (MMM) (Hebrew) http://www.knesset.gov.il/mmm/data/docs/m02167.doc.

Ohliger, R. and Munz, R. 2003. "Diasporas and Ethnic Migrants in Twentieth Century Europe: A Comparative Perspective" in R. Munz and R.Ohliger (Eds.) *Diasporas and Ethnic Migrants: Germany, Israel, and Post-Soviet Successor States in Comparative Perspective*, London: Frank Cass, pp. 3-17.

Pérés, H. 1999. L'Europe commence à Gibraltar. Le dilemme espagnol face à l'immigration. Pôle Sud, n.11, pp. 8-23.

Prats, J. and Raventós, F. (eds.) 2005. Los sistemas educativos europeos. ¿Crisis o transformación? Barcelona: Fundación "La Caixa".

Rawls, J. 1971. A Theory of Justice. Cambridge, Mass: Harvard University Press.

Rodríguez Cabrero, G. 2006. La integración de los inmigrantes no comunitarios en el Estado de Bienestar. Sistema, n 190-191, pp. 309-326.

Rosenhek, Z. 2000. Migration regimes, intra-state conflicts and the politics of exclusion and inclusion: Migrant workers in the Israeli welfare state, Social Problems 47 (1): 49-67.

Shafir, G. and Peled, Y. 2002. *Being Israeli: The Dynamics of Multiple Citizenship*. Cambridge: Cambridge University Press.

Shuval, J.T. and Leshem, E. 1998. The Sociology of Migration in Israel: A Critical View, in Leshem, E. and Shuval, J. (Eds.) *Immigration to Israel: Sociological Perspectives*. New Brunswick and London: Transaction Publishers, pp. 3-50.

Shaked, D. 2008 Chinese workers in Israel- activity report, Kav La'Oved.

Shaps, M. 2008 Press Release "Data on Foreign Workers at the end of 2007", July 30, Central Bureau of Statistics (Hebrew), http://www.cbs.gov.il/reader (date accessed February 3, 2009).

Soysal, Y. 1994. Limits of Citizenship. Migrants and Postnational Membership in Europe. Chicago: University of Chicago Press.

Van Oorschoft, W., and Uunk, W. 2007. Welfare Spending and the Public's Concerf for Immigrants. Multilevel Evidence for Eighteen European Countries. Comparative Politics, Vol.40 (1), pp. 63-82.

Walzer, M. 1983. Spheres of Justice. New York: Basic Books.

Yanay, U. & Borowosky, A. 1998. Foreign workers in Israel: Rights and access to welfare services, Social Security 53: 59-78. (Hebrew).